

□

**BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE, NO. 01-244  
(Judge Charles W. Cope)

Case No. SC01-2670

/

**SPECIAL COUNSEL'S RESPONSE TO  
MOTION FOR PROTECTIVE ORDER REGARDING  
DEPOSITIONS OF SANDRA BETANCOURT AND ALVIN HAGANS**

The Special Counsel hereby responds to Judge Cope's Motion for Protective Order served on June 11, 2002 regarding the depositions of Sandra Betancourt and Alvin Hagans, and states:

1. Judge Cope seeks to prevent the depositions of Sandra Betancourt and Alvin Hagans, who are employees of Hanley-Hazelton.

2. At the June 5, 2002, hearing, the Chair ruled that evidence of alcohol treatment would be excluded and that Judge Cope's medical records would be sealed. The Special Counsel does not in any way seek to challenge or evade this ruling.

3. Rather, the Special Counsel has set these depositions for the limited purpose of confirming certain admissions that, on information and belief, Judge Cope made to the deponents with regard to his conduct in Carmel, California, including whether he knocked on the victim's door on the night in question.

4. If confirmed, such evidence would be directly relevant to the charges in this case and would be admissible as an exception to the hearsay rule pursuant to section 90.803(18), Florida Statutes, as a party's admission. It would also be admissible to impeach Judge Cope's

testimony pursuant to section 90.614.

5. The Special Counsel will ask not go beyond this limited scope and will not attempt to attach any medical records to the deposition or otherwise place them into the public record.

6. With regard to the question of privilege, Judge Cope executed a release requesting that Hanley-Hazelden "furnish the Judicial Qualifications Commission of the State of Florida, upon request by them, any and all medical information, including any and all psychiatric records, alcohol abuse and treatment records, notes, reports, . . . made by you or generated at your facility, pertaining to examination and treatment administered to me at your facility." A true and correct copy of this release is attached hereto as **Exhibit A**.

7. The depositions are intended solely to reduce information provided pursuant to this release to admissible form (i.e., the testimony of the person(s) to whom the admissions were made). Accordingly, Judge Cope has released and/or waived any privilege by voluntarily providing this information to the Commission.

8. Moreover, any financial or time burden resulting from this deposition will be minimal because (1) the depositions should last around twenty minutes, and (2) appearances can be made by telephone.

WHEREFORE, the Motion for Protective Order should be denied.

### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. mail to: **Robert W. Merkle, Jr., Esq.**, Co-Counsel for Respondent, 5510 W. La Salle Street, #300, Tampa, Florida 33607-1713; **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court

of Appeal, 2001 S.W. 117th Ave., Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32301; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602 this 11th day of June, 2002.

By:  
John S. Mills, Esq.  
Florida Bar No. 0107719  
Special Counsel  
Florida Judicial Qualifications Commission  
Foley & Lardner  
200 Laura Street  
Jacksonville, Florida 32201-0240  
(904) 359-2000 Telephone

□